IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11751 of 2000

with

SPECIAL CIVIL APPLICATION No 4612 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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REGIONAL DIRECTOR G.S.R.T.C.

Versus

PARMAR KESHAVRAM

Appearance:

1. Special Civil Application No. 11751 of 2000
   MR MITUL K SHELAT for Petitioner No. 1
   MR MUKESH H RATHOD for Respondent No. 1
2. Special Civil Application No. 4612 of 2001
   MR MUKESH H RATHOD for Petitioner No. 1
   MR MITUL K SHELAT for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 21/09/2001

ORAL JUDGEMENT

#. Rule. Mr.Rathod waives service of rule for the respondent. With the consent of the parties, the matter is taken up for final hearing today.

#. The respondent workman was transferred from Veraval Depot to Jamjodhpur Depot, but he had not resumed the duty at the transferred place. According to the Corporation, the respondent workman stopped attending the duty. Thereafter, the respondent workman raised the industrial dispute, which was numbered as (LCJ) New No.1071 of 1990, on the ground that his services were terminated by oral order. During the pendency of the reference, the respondent workman resumed his duty. Thereafter, the Labour Court by its award dated 9.5.2000 came to the conclusion that, in the facts and circumstances of the case and especially since the respondent workman has already been reinstated, he should be paid 20 % back-wages for the intervening period i.e. from 5.4.1986 to 12.6.1990. The said order of granting back-wages is challenged by the S.T.Corporation.

#. Considering the arguments of both the sides and in view of the facts and circumstances of the case, I am of the opinion that the Labour Court should not have given 20 % back-wages in favour of the respondent workman. It is argued by Mr.Shelat that the petitioner Corporation has never relieved the concerned workman from the service and that he has not reported for duty at the transferred place. Mr.Shelat has also referred to the observations made at page 16, wherein the Labour Court has reached to the conclusion that the concerned workman has given false evidence. Mr.Shelat has relied upon the judgment reported in 1997 SC 2439, wherein, it is held that if the concerned workman has chosen not to join the duty, he is not entitled to the back-wages on his reinstatement. In the facts and circumstances of the case, therefore, the order of the Labour Court insofar as granting the back-wages is concerned, the same is quashed and set aside. The petition is accordingly partly allowed. Rule is made absolute accordingly with no order as to costs.

#. In view of the order passed in Special Civil Application No.11751 of 2000, so far as Special Civil Application No.4612 of 2001 is concerned, which is a cross petition, the same is required to be dismissed and accordingly the said petition is dismissed.

(P.B.Majmudar,J)

(pathan)